

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**NOEL GARCIA,  
Plaintiff,**

**v.**

**PHILADELPHIA DISTRICT  
ATTORNEY'S OFFICE, *et al.*,  
Defendants.**

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**CIVIL ACTION NO. 22-CV-3864**

**ORDER**

AND NOW, this 22<sup>nd</sup> day of December, 2022, upon consideration of Noel Garcia's Motion to Proceed *In Forma Pauperis* (ECF No. 2), Prisoner Trust Fund Account Statement (ECF No. 3), *pro se* Complaint (ECF No. 1), Motion for Leave to Amend Complaint (ECF No. 7), Motion for Allowance to Amend Complaint (ECF No. 9), Motion for Leave to Amend Complaint (ECF No. 10), and Motion to Appoint Counsel (ECF No. 8), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Noel Garcia, #HQ-9129, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of SCI Houtzdale or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Garcia's inmate account; or (b) the average monthly balance in Garcia's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Garcia's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the

Clerk of Court equaling 20% of the preceding month's income credited to Garcia's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of SCI Houtzdale.

4. The Complaint is **DEEMED** filed.

5. Garcia's Motion for Leave to Amend Complaint, Motion for Allowance to Amend Complaint, and Motion for Leave to Amend Complaint are **GRANTED**.

6. Garcia's Complaint is **DISMISSED WITH PREJUDICE** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum.

7. Garcia's Motion to Appoint Counsel is **DENIED AS MOOT**.

8. The Clerk of Court shall **CLOSE** this case.

**BY THE COURT:**

*/s/ John M. Gallagher*

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**JOHN M. GALLAGHER, J.**